

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE ENERGY RECOVERY INC.
SECURITIES LITIGATION.

Case No. [15-cv-00265-EMC](#)

**ORDER CONDITIONALLY
GRANTING PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL**

Docket No. 127

Currently pending before the Court is Lead Plaintiff's motion for preliminary approval of a class action settlement. Having considered the papers submitted as well as the oral argument of counsel, and for the reasons stated on the record, the Court hereby conditionally **GRANTS** the motion. As a general matter, the Court finds that in light of, *inter alia*, the size of the recovery relative to the maximum verdict value of the case and the risks of litigation, the settlement "(1) appears to be the product of serious, informed, non-collusive negotiations; (2) has no obvious deficiencies; (3) does not improperly grant preferential treatment to class representatives or segments of the class; and (4) falls within the range of possible approval." *Ruch v. Am Retail Grp., Inc.*, No. 14-cv-05352-MEJ, 2016 U.S. Dist. LEXIS 39629, at *30-31 (N.D. Cal. Mar. 24, 2016). The factors set forth by the Ninth Circuit favor preliminary approval. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (stating that factors to consider in evaluating a settlement proposal include "the strength of the plaintiffs' case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed and the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members to the proposed settlement").


1 The Court is prepared to unconditionally grant the motion if the parties are able to agree on
2 the following:

- 3 • Providing for a reminder postcard if the response rate is low (the parties should
4 specify a threshold).
- 5 • Providing for the *same* timing for a response to the class notice – *i.e.*, claims,
6 objections, and opt-outs are all due on the same day.
- 7 • Allowing a class member to respond to the notice by fax or e-mail (*e.g.*, PDF) in
8 addition to mail.
- 9 • For both the long and summary notices, disclosing the dollar amounts for claim
10 administration fees (\$120,000-\$135,000) and the incentive fee for Lead Plaintiff
11 (\$5,000).

12 Within one week of the date of this order, the parties shall file a revised proposed order and
13 (if necessary) an amended stipulation of settlement.

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15 **IT IS SO ORDERED.**

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17 Dated: March 27, 2017

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20 EDWARD M. CHEN
21 United States District Judge
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